

ORDINANCE NO. C.S. _____

**AN ORDINANCE ADDING CHAPTER ____ TO THE COUNTY CODE
RELATING TO JUNK DEALERS AND SCRAP METAL RECYCLERS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF _____,
STATE OF CALIFORNIA DO ORDAIN AS FOLLOWS:

Section 1. Chapter _____ is hereby added to the _____ County Code to read as follows:

CHAPTER _____ JUNK DEALERS AND SCRAP METAL RECYCLERS

AUTHORITY

A. This chapter is adopted in supplementation of Business and Professions Code sections 21600 through 21609. This chapter is not intended to supersede the provisions of these statutes. Any conflict that may exist between this chapter and state laws shall be resolved in favor of the latter. Nothing contained herein shall relieve any person or legal entity of obligations contained in the Business and Professions Code or other provisions of state or local law.

DEFINITIONS

A. "junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.

B. "scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

C. "junk dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

D. "junk yard" includes any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept.

E. "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk, as defined in Business and Professions Code section 21600.

EXEMPTIONS

- A. This chapter shall not apply to any of the following:
1. Secondhand furniture merchants.
 2. Pawnbrokers.
 3. Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard.
 4. Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.
 5. Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard.
 6. Secondhand clothing merchants and ragpickers.

REPORTING

- A. Junk dealers or recyclers shall report to the Sheriff of _____ County at the Office of the Sheriff, every day before twelve o'clock noon, on a form provided by the Sheriff, a record of all sales and purchases of the previous 24 hours. The report shall contain the information required by this chapter and any additional information required by the Sheriff as shown on the forms.
- B. The report shall at a minimum contain the following information:
1. The name, business name, business address, telephone number, facsimile number, and electronic mail address;
 2. The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.
 3. A photocopy of the sellers valid government issued picture identification card, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.
 4. The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.
 5. A full and complete description of the item or items of junk purchased or sold, including the item type, quantity, length, diameter, size, brand, model, manufacturer, and identification number.

6. A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.

7. The fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed, of the person from whom junk is received.

SELLER'S AGE LIMIT

A. It is unlawful for any junk dealer or recycler to purchase, or otherwise acquire, any junk from any person known, or reasonably should be known by the junk dealer or recycler, to be under the age of eighteen years.

HOURS

A. It is unlawful for any junk dealer or recycler to conduct of his or her business as a junk dealer within this County between the hours of seven p.m. of one day and seven a.m., of the next day.

PAYMENT

A. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk to any person except by paper draft or check after a minimum period of 15 days from the date of purchase.

SPECIAL CONSIDERATION FOR CERTAIN TRANSACTIONS

A. Every junk dealer or recycler shall immediately notify the Sheriff's Department by telephone, or other means likely to reach the Sheriff's Department without delay, of the following transactions:

1. The sale or purchase of any junk which reasonably appear to be used only by governments, utilities, railroads, or for specific purposes, such as guardrails, manhole covers, aluminum irrigation pipe, high voltage transmission lines, historical markers, cemetery plaques, light poles, and bleachers.

B. Every junk dealer or recycler shall hold all scrap metals described in this section in its custody in the same condition in which they were received for a minimum of 5 days before the scrap metals and alloys may be released or disposed of.

LICENSE

License—Required.

A. It is unlawful for any person to act as a junk dealer or recycler without first making an application for and receiving from the Treasurer-Tax Collector a license to act as such junk dealer or recycler in the unincorporated areas of the county

License—Application—Contents.

B. Any person desiring a license, or to renew a license, hereunder shall make application to the Treasurer-Tax Collector upon blanks furnished therefor. If the application is made by an individual, he shall affirm under penalty of perjury that the contents of the application are true, and the contents of the application shall include the name and age of applicant, his present address or addresses, and the name under which, and the place where, the applicant has conducted a similar business within twelve months immediately preceding the date of the application. If the business is to be engaged in by a partnership, association or corporation, the application for a license shall be made by the general manager thereof, or by one having the authority of a general manager. In such case, the application shall state the true name of the organization, the date of its organization, its type, the location of its principal place of business, the names and addresses of its officers, or, in the case of a copartnership, the names and addresses of all the partners.

C. If applicable, in accordance with California Business and Professions Code sections 12703 and 12733, the applicant shall attach to the application documentation to the satisfaction of the Tax Collector that the applicant holds a current and active California Weighmaster License. A copy of the applicant's current Weighmaster License shall be displayed in a prominent location at each location where the applicant conducts business.

D. The applicant shall acknowledge having read Penal Code section 496a, which shall be prominently set forth on the application in bold type.

License—Application—Employee Identification.

E. The applicant, at the request of the Sheriff, shall accompany the application with photographs and fingerprints of all the individuals who are to be actually engaged in the management of the business or in buying or otherwise acquiring junk for the business for which the license is requested. In the event any other person, after the license has been granted, is engaged in the management of the business or in buying or otherwise acquiring such junk, the licensee shall furnish to the Sheriff on request the photograph and fingerprints of such person. No license shall be issued until any such demand has been complied with, and any license that has been issued shall be suspended or revoked if the licensee does not, within a reasonable time, comply with the provisions of this section.

License—Application— Investigation.

F. Upon submission of a complete application for license under this chapter, the application shall be immediately referred to the Department of Planning and Community Development, the Department of Environmental Resources, and to the Sheriff for investigation concerning the applicant's business and character of the applicant. These departments shall, after investigation, file a report upon the application designating whether or not the applicant is a proper person to be granted the license applied for. No applicant shall be reported as a proper person to be granted a license under this chapter unless and until it appears that the applicant's conduct or proposed conduct of the business does and will comply with all applicable laws and ordinances, including but not limited to those relating to the public health and to zoning. The departments shall be allowed sixty days from the date of receiving a completed application within which to file the report.

License—Fee.

G. The required annual fee for a junk dealer or recycler's license shall be \$150.

License—Term.

H. The licenses provided for in this section shall be issued for a period of one year from the date of issuance.

License—Denial Appeal.

I. In the event of the denial of an application for license under this chapter, the applicant may, within ten days after the date written notice of such adverse report is mailed, file with the Board of Supervisors a notice of intention to appear before the Board to appeal the denial of the application. Upon failure to file such notice within the ten-day period, the denial of the application shall be final and conclusive.

License— Suspension, Revocation or Conditioning of License.

J. The Board of Supervisors may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any licensee and may, after ten days written notice to the licensee and after a hearing before the Board, suspend, revoke, or condition the license of any licensee who commits any one or more of the acts or omissions constituting grounds for disciplinary action under this section. The grounds for such action shall be summarized in the notice. The notice provided for herein shall be given by registered or certified mail, postage prepaid, or in the manner required for the service of summons in civil actions. Pending the Board's final decision regarding the license, a licensee may continue to engage in the business for the period of his license.

License— Disciplinary Action Grounds.

K. It shall be a ground for disciplinary action if any licensee, his agent or employee or any person connected or associated with the licensee as partner,

director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the licensee has:

1. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a license, or in any report or record required to be filed; or
2. Violated any provision of this chapter or of any statute relating to his licensed activity; or
3. Been convicted of a felony or any crime involving theft, embezzlement or moral turpitude; or
4. Committed any act constituting dishonesty or fraud; or
5. A bad moral character, intemperate habits or a bad reputation for truth, honesty or integrity; or
6. Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting a licensed business; or
7. Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of a licensed business; or
8. Violated any rule or regulation adopted by the Board relating to the licensee's business; or
9. Conducted the licensed business in a manner contrary to the peace, health, safety, and general welfare or the public; or
10. Demonstrated that he is unfit to be trusted with the privileges granted by such license; or
11. Failed to comply with the regulations of _____ County.

License— Revocation Without Hearing Upon Conviction.

L. If any person holding a license under this chapter is convicted in any court of the violation of any law relative to his operation of a licensed business, the Board may revoke the license forthwith without any further action thereon other than giving notice of revocation to the licensee.

PENALTY.

A. Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment in the County Jail for not more than six (6) months, or both such fine and imprisonment.